

REMARKS

The present Amendment is in response to the Examiner's Office Action mailed November 15, 2007. Claims 1, 24, 36, 55, and 72 are amended and no claims are added or cancelled. Claims 1-7, 9-10, 12-16, 24, 26-36, 38-63, and 65-85 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. GENERAL CONSIDERATIONS

A. Claim Amendments

With particular reference to the claim amendments, Applicant notes that while claims 1, 24, 36, 55, and 72 have been amended herein, such amendments have been made in the interest of expediting the allowance of this case. Notwithstanding, Applicant may, on further consideration, determine that claims of broader scope than those now presented are supported. Accordingly, Applicant hereby reserves the right to file one or more continuing applications with claims broader in scope than the claims now presented.

Consistent with the points set forth above, Applicant submits that neither the claim amendments set forth herein, nor any other claim amendments, claim cancellation, or statements advanced by the Applicant in this or any related case, constitute or should be construed as, an implicit or explicit surrender or disclaimer of claim scope with respect to the cited, or any other, references.

B. Remarks

Applicant respectfully notes that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the patentable distinctions between any cited references and the invention, example embodiments of which are set forth in the claims of this application. Rather, and in consideration of the fact that various factors make it impractical to enumerate all the patentable distinctions between the invention and the cited art, as well as the fact that the Applicant has broad discretion in terms of the identification and consideration of the

base(s) upon which the claims distinguish over the cited references, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration by the Applicant, in this case or any other, of additional or alternative distinctions between the invention and the cited references; and/or, the merits of additional or alternative arguments.

Applicant notes as well that the remarks, or a lack of remarks, set forth herein are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teachings and purported prior art status of the cited references at any appropriate time.

II. Rejection Under 35 U.S.C. § 103

As an initial matter, Applicant respectfully notes that in order to establish a *prima facie* case of obviousness, it is the burden of the Office Action to demonstrate that the prior art reference (or references when combined) teach or suggest all the claim limitations. *MPEP § 2143*. Applicant respectfully traverses the characterization of the Office Action for the reasons that will now be explained.

A. Claims 1, 4-7, 9-10, and 12

The Office Action rejects claims 1, 4-7, 9-10 and 12 under 35 U.S.C. § 103 as being unpatentable over *Jibbe* (U.S. Patent No. 6,687,856) in view of *Noy* (U.S. Patent No. 7,114,111). As noted above, Applicant has amended independent claim 1 to recite in part “a data input port for receiving the activity from the transmission medium, wherein the data input port includes an adaptor pod configured for converting a signal type used by the transmission medium to a signal type used by the analyzer and wherein the adaptor pod is further configured to at least partially aid in the performance of decoding, triggering, filtering or statistical functions. . . .” (Emphasis added). Support for such amendment is found at least in Figure 1 and paragraphs [0028]-[0029] of the originally filed specification.

In sharp contrast, the Office Action has not shown that *Jibbe* and *Noy*, either singularly or in combination, teach or suggest such a data input port that includes an adaptor pod. The Office Action primarily cites *Jibbe* to show the various elements of a replay analyzer. Assuming *arguendo*, that *Jibbe* does teach or suggest a replay analyzer, nowhere in this reference is there any mention of a data input port as now recited in claim 1. For example, the Office Action purports that the data port element is taught because *Jibbe* allegedly teaches that a point-to-point connection exists between a single host computer and a single disk array controller through the host-side hub 110. However, the host-side hub, as is known to one of skill in the art, is primarily a switch that allows multiple computers 105 to be connected with either of the disk array controllers 115 and 120 and does not function as the adaptor pod of claim 1. Indeed, neither the connection between the single host computer and a single disk array controller or the host-side hub are designed to function as the data port that includes an adaptor pod as recited in amended claim 1.

Further, *Noy* does not teach or suggest a data input port that includes an adaptor pod as now recited in claim 1 and is not cited by the Office Action as teaching such. Thus, **the combination of *Jibbe* and *Noy*** fails to teach or suggest all of the limitations of amended claim 1.

Accordingly, the Applicant respectfully submits that the Office Action has failed to establish a *prima facie* case of obviousness with respect to claims 1, 4-7, 9-10 and 12, at least because the Office Action has failed to show that the cited art, **either singularly or in combination**, teaches or suggests all of the claim limitations of amended claim 1. Applicant thus respectfully submits that the obviousness rejection of amended claim 1 and dependent claims 4-7, 9-10 and 12 should be withdrawn.

B. Claims 2 and 3

The Office Action rejects claims 2 and 3 under 35 U.S.C. § 103 as being unpatentable over *Jibbe* in view of *Noy*, and further in view of *Nelson et al.* (U.S. Patent No. 6,928,108). As discussed above, the purported combination of *Jibbe* and *Noy* does not teach each and every element of amended independent claim 1. *Nelson* does not teach the elements of amended claim 1 missing in the purported combination of *Jibbe* and *Noy*, nor is it cited by the Office Action as teaching such. Thus, the purported combination of *Jibbe*, *Noy* and *Nelson* does not teach each

and every element of amended claim 1. Accordingly, based on their dependence to amended independent claim 1, dependent claims 2 and 3 include all of the limitations of amended claim 1 and are patentable for at least the reasons that amended claim 1 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claims 2 and 3.

C. Claim 13

The Office Action rejects claim 13 under 35 U.S.C. § 103 as being unpatentable over *Jibbe* in view of *Noy* and further in view of *Bucher et al.* (U.S. Pub. No. 2001/0016925). As discussed above, the purported combination of *Jibbe* and *Noy* does not teach each and every element of amended independent claim 1. *Bucher* does not teach the elements of amended claim 1 missing in the purported combination of *Jibbe* and *Noy*, nor is it cited by the Office Action as teaching such. Thus, the purported combination of *Jibbe*, *Noy* and *Bucher* does not teach each and every element of amended claim 1. Accordingly, based on its dependence to amended claim 1, dependent claim 13 includes all of the limitations of amended claim 1 and is patentable for at least the reasons that amended claim 1 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claim 13.

D. Claims 14-16

The Office Action rejects claims 14-16 under 35 U.S.C. § 103 as being unpatentable over *Jibbe* in view of *Noy* and further in view of *Blatter et al.* (U.S. Patent No. 6,236,694). As discussed above, the purported combination of *Jibbe* and *Noy* does not teach each and every element of amended independent claim 1. *Blatter* does not teach the elements of amended claim 1 missing in the purported combination of *Jibbe* and *Noy*, nor is it cited by the Office Action as teaching such. Thus, the purported combination of *Jibbe*, *Noy* and *Blatter* does not teach each and every element of amended claim 1. Accordingly, based on their dependence to amended independent claim 1, dependent claims 14-16 include all of the limitations of amended claim 1 and are patentable for at least the reasons that amended claim 1 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claims 14-16.

E. Claims 24 and 27-35

The Office Action rejects claims 24 and 27-35 under 35 U.S.C. § 103 as being unpatentable over *Jibbe* in view of *Lee et al.* (U.S. Patent No. 6,377,643). As noted above, Applicant has amended independent claim 24 to recite in part “a data input port for receiving the activity from the transmission medium, wherein the data input port includes an adaptor pod configured for converting a signal type used by the transmission medium to a signal type used by the analyzer and wherein the adaptor pod is further configured to at least partially aid in the performance of decoding, triggering, filtering or statistical functions. . . .” (Emphasis added). Support for such amendment is found at least in Figure 1 and paragraphs [0028]-[0029] of the originally filed specification.

As discussed previously in relation to amended claim 1, the Office Action has not shown that *Jibbe* teaches or suggests a data input port that includes an adaptor pod with the functionality as claimed in amended claim 24. Further, *Lee* does not teach or suggest a data input port that includes an adaptor pod as now recited in amended claim 24 and is not cited by the Office Action as teaching such. Thus, **the combination of *Jibbe* and *Lee*** fails to teach or suggest all of the limitations of amended claim 24.

Accordingly, the Applicant respectfully submits that the Office Action has failed to establish a *prima facie* case of obviousness with respect to claims 24 and 27-35, at least because the Office Action has failed to show that the cited art, **either singularly or in combination**, teaches or suggests all of the claim limitations of amended claim 24. Applicant thus respectfully submits that the obviousness rejection of amended claim 24 and dependent claims 27-35 should be withdrawn.

F. Claim 26

The Office Action rejects claim 26 under 35 U.S.C. § 103 as being unpatentable over *Jibbe*) in view of and further in view of *Bucher et al.* (U.S. Patent No. 6,393,587). As discussed above, the purported combination of *Jibbe* and *Lee* does not teach each and every element of amended independent claim 24. *Bucher* does not teach the elements of amended claim 24 missing in the purported combination of *Jibbe* and *Lee*, nor is it cited by the Office Action as teaching such. Thus, the purported combination of *Jibbe*, *Lee* and *Bucher* does not teach each

and every element of amended claim 24. Accordingly, based on its dependence to amended claim 24, dependent claim 26 includes all of the limitations of amended claim 24 and is patentable for at least the reasons that amended claim 24 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claim 26.

G. Claims 36, 38-43, 45, 48-54

The Office Action rejects claims 36, 38-43, 45, 48-54 under 35 U.S.C. § 103 as being unpatentable over *Jibbe* in view of *Bucher et al.* (U.S. Pub. No. 2001/0016925) and further in view of *Blatter*. As noted above, Applicant has amended independent claim 36 to recite in part “a data input port for receiving data from a transmission medium, wherein the data input port includes an adaptor pod configured for converting a signal type used by the transmission medium to a signal type used by the analyzer and wherein the adaptor pod is further configured to at least partially aid in the performance of decoding, triggering, filtering or statistical functions. . .” (Emphasis added). Support for such amendment is found at least in Figure 1 and paragraphs [0028]-[0029] of the originally filed specification.

As discussed previously in relation to amended claim 1, the Office Action has not shown that *Jibbe* teaches or suggests a data input port that includes an adaptor pod with the functionality as claimed in amended claim 36. Further, neither *Bucher* nor *Blatter* teach or suggest a data input port that includes an adaptor pod as now recited in amended claim 36 and neither is cited by the Office Action as teaching such. Thus, **the combination of *Jibbe*, *Bucher* and *Blatter*** fails to teach or suggest all of the limitations of amended claim 36.

Accordingly, the Applicant respectfully submits that the Office Action has failed to establish a *prima facie* case of obviousness with respect to claims 36, 38-43, 45, 48-54, at least because the Office Action has failed to show that the cited art, **either singularly or in combination**, teaches or suggests all of the claim limitations of amended claim 36. Applicant thus respectfully submits that the obviousness rejection of amended claim 36 and dependent claims 38-43, 45, 48-54 should be withdrawn.

H. Claim 44

The Office Action rejects claim 44 under 35 U.S.C. § 103 as being unpatentable over *Jibbe* in further view of *Bucher* in further view of *Blatter* and in further view of *Dwyer* (U.S. Patent No. 6,820,251). As discussed above, the purported combination of *Jibbe*, *Bucher* and *Blatter* does not teach each and every element of amended independent claim 36. *Dwyer* does not teach the elements of amended claim 36 missing in the purported combination of *Jibbe*, *Bucher* and *Blatter*, nor is it cited by the Office Action as teaching such. Thus, the purported combination of *Jibbe*, *Bucher*, *Blatter*, and *Dwyer* does not teach each and every element of amended claim 36. Accordingly, based on its dependence to amended claim 36, dependent claim 44 includes all of the limitations of amended claim 36 and is patentable for at least the reasons that amended claim 36 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claim 44.

I. Claims 46-47

The Office Action rejects claims 46-47 under 35 U.S.C. § 103 as being unpatentable over *Jibbe* in further view of *Bucher* in further view of *Blatter* and in further view of *Rivoir* (U.S. Patent No. 6,105,087). As discussed above, the purported combination of *Jibbe*, *Bucher* and *Blatter* does not teach each and every element of amended independent claim 36. *Rivoir* does not teach the elements of amended claim 36 missing in the purported combination of *Jibbe*, *Bucher* and *Blatter*, nor is it cited by the Office Action as teaching such. Thus, the purported combination of *Jibbe*, *Bucher*, *Blatter*, and *Rivoir* does not teach each and every element of amended claim 36. Accordingly, based on their dependence to amended claim 36, dependent claims 46-47 include all of the limitations of amended claim 36 and are patentable for at least the reasons that amended claim 36 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claims 46-47.

J. Claims 55-63 and 65-71

The Office Action rejects claims 55-63 and 65-71 under 35 U.S.C. § 103 as being unpatentable over *Jibbe* in further view of *Rivoir*. As noted above, Applicant has amended independent claim 36 to recite in part “a data input port for receiving data from a transmission medium, wherein the data input port includes an adaptor pod configured for converting a signal

type used by the transmission medium to a signal type used by the analyzer and wherein the adaptor pod is further configured to at least partially aid in the performance of decoding, triggering, filtering or statistical functions. . .” (Emphasis added). Support for such amendment is found at least in Figure 1 and paragraphs [0028]-[0029] of the originally filed specification.

As discussed previously in relation to amended claim 1, the Office Action has not shown that *Jibbe* teaches or suggests a data input port that includes an adaptor pod with the functionality as claimed in amended claim 36. Further, *Rivoir* does not teach or suggest a data input port that includes an adaptor pod as now recited in amended claim 55 and is not cited by the Office Action as teaching such. Thus, **the combination of *Jibbe* and *Rivoir*** fails to teach or suggest all of the limitations of amended claim 36.

Accordingly, the Applicant respectfully submits that the Office Action has failed to establish a *prima facie* case of obviousness with respect to claims 55-63 and 65-71, at least because the Office Action has failed to show that the cited art, **either singularly or in combination**, teaches or suggests all of the claim limitations of amended claim 55. Applicant thus respectfully submits that the obviousness rejection of amended claim 55 and dependent claims 56-63 and 65-71 should be withdrawn.

K. Claims 72 and 75-80

The Office Action rejects claims 72 and 75-80 under 35 U.S.C. § 103 as being unpatentable over *Jibbe* in further view of *Blatter*. As noted above, Applicant has amended independent claim 36 to recite in part “a data input port for receiving the activity from the transmission medium, wherein the data input port includes an adaptor pod configured for converting a signal type used by the transmission medium to a signal type used by the analyzer and wherein the adaptor pod is further configured to at least partially aid in the performance of decoding, triggering, filtering or statistical functions. . .” (Emphasis added). Support for such amendment is found at least in Figure 1 and paragraphs [0028]-[0029] of the originally filed specification.

As discussed previously in relation to amended claim 1, the Office Action has not shown that *Jibbe* teaches or suggests a data input port that includes an adaptor pod with the functionality as claimed in amended claim 36. Further, *Blatter* does not teach or suggest a data input port that

includes an adaptor pod as now recited in amended claim 72 and is not cited by the Office Action as teaching such. Thus, **the combination of *Jibbe* and *Blatter*** fails to teach or suggest all of the limitations of amended claim 36.

Accordingly, the Applicant respectfully submits that the Office Action has failed to establish a *prima facie* case of obviousness with respect to claims 72 and 75-80, at least because the Office Action has failed to show that the cited art, **either singularly or in combination**, teaches or suggests all of the claim limitations of amended claim 72. Applicant thus respectfully submits that the obviousness rejection of amended claim 72 and dependent claims 75-80 should be withdrawn.

L. Claims 73-74

The Office Action rejects claims 73-74 under 35 U.S.C. § 103 as being unpatentable over *Jibbe* in further view of *Blatter* and in further view of *Nelson*. As discussed above, the purported combination of *Jibbe* and *Blatter* does not teach each and every element of amended independent claim 72. *Nelson* does not teach the elements of amended claim 72 missing in the purported combination of *Jibbe* and *Blatter*, nor is it cited by the Office Action as teaching such. Thus, the purported combination of *Jibbe*, *Blatter* and *Nelson* does not teach each and every element of amended claim 72. Accordingly, based on their dependence to amended independent claim 72, dependent claims 73 and 74 include all of the limitations of amended claim 72 and are patentable for at least the reasons that amended claim 72 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claims 73 and 74.

M. Claims 81 and 84-85

The Office Action rejects claims 81 and 84-85 under 35 U.S.C. § 103 as being unpatentable over *Jibbe* in further view of *Blatter* and in further view of *Noy*. As discussed above, the purported combination of *Jibbe* and *Blatter* does not teach each and every element of amended independent claim 72. *Noy* does not teach the elements of amended claim 72 missing in the purported combination of *Jibbe* and *Blatter*, nor is it cited by the Office Action as teaching such. Thus, the purported combination of *Jibbe*, *Blatter* and *Noy* does not teach each and every element of amended claim 72. Accordingly, based on their dependence to amended independent

claim 72, dependent claims 81 and 84-85 include all of the limitations of amended claim 72 and are patentable for at least the reasons that amended claim 72 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claims 81 and 84-85.

N. Claim 82

The Office Action rejects claim 82 under 35 U.S.C. § 103 as being unpatentable over *Jibbe* in further view of *Blatter* and in further view of *Lee*. As discussed above, the purported combination of *Jibbe* and *Blatter* does not teach each and every element of amended independent claim 72. *Lee* does not teach the elements of amended claim 72 missing in the purported combination of *Jibbe* and *Blatter*, nor is it cited by the Office Action as teaching such. Thus, the purported combination of *Jibbe*, *Blatter* and *Lee* does not teach each and every element of amended claim 72. Accordingly, based on its dependence to amended independent claim 72, dependent claim 82 includes all of the limitations of amended claim 72 and is patentable for at least the reasons that amended claim 72 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claim 82.

O. Claim 83

The Office Action rejects claim 83 under 35 U.S.C. § 103 as being unpatentable over *Jibbe* in further view of *Blatter* and in further view of *Bucher et al.* (U.S. Pub. No. 2001/0016925). As discussed above, the purported combination of *Jibbe* and *Blatter* does not teach each and every element of amended independent claim 72. *Bucher* does not teach the elements of amended claim 72 missing in the purported combination of *Jibbe* and *Blatter*, nor is it cited by the Office Action as teaching such. Thus, the purported combination of *Jibbe*, *Blatter* and *Bucher* does not teach each and every element of amended claim 72. Accordingly, based on its dependence to amended independent claim 72, dependent claim 83 includes all of the limitations of amended claim 72 and is patentable for at least the reasons that amended claim 72 is patentable. Applicant thus respectfully asks that the obviousness rejection be withdrawn from claim 83.

CONCLUSION

In view of the foregoing, Applicant believes that he has addressed every issue raised in the Office Action and has put the claims in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 17th day of March, 2008.

Respectfully submitted,

/Shane K. Jensen/Reg.# 55301

ERIC L. MASCHOFF
Registration No. 36,596

SHANE K. JENSEN
Registration No. 55,301
Attorneys for Applicant
Customer No. 022913
Telephone: (801) 533-9800

ELM:SKJ:ajb
W:\15436\902.1\JLP0000000982V001.doc